



SOUTHERN AFRICAN CHIEF JUSTICES FORUM

MEETING OF CHIEF JUSTICES FROM SOUTHERN AND EAST AFRICA HELD IN WINDHOEK, NAMIBIA, ON 11 - 13 AUGUST 2005

A meeting of the Southern African Judges Commission (the Commission) was held in Windhoek, Namibia, on 11-13 August 2005. In attendance were Chief Justices and Senior Judges from the Republic of Angola, the Republic of Botswana, the Republic of Kenya, the Kingdom of Lesotho, the Republic of Malawi, the Republic of Mozambique, the Republic of Namibia, the Republic of South Africa, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Uganda, the Republic of Zambia and the Republic of Zimbabwe, respectively.

The meeting had a dual purpose, firstly to discuss issues pertaining to the independence and accountability of the judiciaries in the southern and east African region, and secondly, to deal with the business of the annual general meeting of the Commission.

The Commission is an association of Chief Justices established to facilitate, among other things, closer cooperation and liaison among judges, in particular, the Chief Justices in the region. This was the eighth meeting of the SAJC, the first having been held on 21 -21 July 2003 in Zanzibar where the Chief Justices agreed to the establishment of the Commission.

The Constitution of the Commission was signed by the Chief Justices on 7 December 2003. Its objects include: (a) the promotion of contact and co-operation among courts in the southern African region; (b) the

promotion of the rule of law, democracy and the independence of the courts in the region; and (c) rendering assistance to and generally to promote the welfare and dignity of judges in the respective jurisdictions.

The former Chief Justice of South Africa, Justice Arthur Chaskalson and his wife Dr Lorraine Chaskalson attended the conference as the special guests of the Commission. A special dinner was held on the premises of the Supreme Court of Namibia to pay tribute to Justice Chaskalson for his outstanding contribution to the Commission, in particular, as the founding Chairperson of the Commission. Justice Chaskalson vacated office as the Chairperson following his retirement as Chief Justice of South Africa.

Justice Chaskalson's successor as Chief Justice of South Africa, Justice Pius Langa, was elected as Chairperson for the forthcoming year and presided over the proceedings of the annual general meeting of the Commission. Justice Samatta, the Chief Justice of the Republic of Tanzania and Justice Sakala, the Chief Justice of the Republic of Zambia, were returned as the other members of the Management Committee of the Commission. Chief Justice Samatta is the Deputy Chairperson.

With regard to the Conference on the Independence and Accountability of the Judiciary, the Chief Justices and the other Judges in attendance discussed the independence of the judiciary with specific reference to the relationship with the executive, the media, and the rest of society, as well as the concept of and mechanisms for judicial accountability. At the conclusion of the four session discussions, the Chief Justices and Judges unanimously adopted the following conclusions and recommendations.

1. The Southern African Judges Commission reaffirmed the principle of the independence of the judiciary as indispensable in the safeguarding of the Rule of Law, the protection of Human Rights and Good Governance. Governments and heads of judiciaries are enjoined to promote and protect this independence.
2. Governments are urged to do all in their power to guarantee the institutional independence of the judiciary through the institution and implementation of appropriate legislative and other measures. For their

part, members of the judiciary must not deviate from their commitment to do justice to all with impartiality and without fear, favour or prejudice.

3. The Commission acknowledges the important role of the media and freedom of expression as one of the pillars of democracy. In the quest to inform the public of court decisions, accurate reporting is essential and may be enhanced by appropriate consultation between the media and the judiciary.

4. Insisting on judicial independence does not mean that judicial officers are not accountable for the way they discharge their duties. Trials and other court proceedings are held in open court to which the general public, including the media, have access. Reasons must be given for decisions taken in such matters, and those decisions are ordinarily subject to appeals to and reviews by higher courts to ensure that all relevant issues have been taken into account and that the proceedings have been conducted fairly.

1. It was stressed that accountability calls for more than this. Judicial officers must perform their duties in accordance with the high ethical requirements of their office, and that all who appear before them must be treated fairly and courteously.

2. It is essential that there be mechanisms, including adequate complaints systems, for ensuring that these standards are met. The Chief Justices urged those jurisdictions that do not yet have adequate means for dealing with these to adopt mechanisms for this purpose, including codes of conduct consistent with international instruments such as the Latimer House Guidelines and the Bangalore Principles.

Chief Justices and Judges expressed their deep appreciation to the Secretary of the Venice Commission and commended the Supreme Court of Namibia for convening the meeting of Chief Justices and Senior Judges of the Southern African region. The participants expressed their deep appreciation to the Chief Justice of the Republic of Namibia, the Honourable Justice Peter Shivute, for hosting the Conference and the annual general meeting, to the Venice Commission and the Law Society of Namibia for the excellent arrangements made for the meeting.

This information is released on behalf of the Southern African Judges Commission.

**For further information please contact Ms. Ruth Makhambeni on
+27-11-359-7537 or makhambeni@concourt.org.za**